



Jpw

PTO/SB/21 (01-08)

Approved for use through 01/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

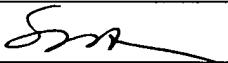
Total Number of Pages in This Submission

Application Number	09/698,586-Conf. #3464
Filing Date	October 27, 2000
First Named Inventor	Jacob Wohlstadter
Art Unit	3692
Examiner Name	H. T. Dass
Attorney Docket Number	W0538.70003US00

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Request For Reconsideration	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		

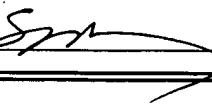
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	WOLF, GREENFIELD & SACKS, P.C.		
Signature			
Printed name	Steven J. Henry		
Date	January 29, 2008	Reg. No.	27,900

Certificate of Mailing Under 37 CFR 1.8(a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: January 29, 2008

Signature:  (Steven J. Henry)



Docket No.: W0538.70003US00
(PATENT)

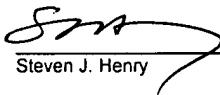
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jacob Wohlstadter
Serial No.: 09/698,586
Confirmation No.: 3464
Filed: October 27, 2000
For: METHOD OF EXCHANGING SECURITIES
Examiner: H. T. Dass
Art Unit: 3692

Certificate of Mailing Under 37 CFR 1.8(a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: January 29, 2008


Steven J. Henry

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

REQUEST FOR RECONSIDERATION

In response to the Final rejection of November 29, 2007, Applicant requests reconsideration.

The rejection of claims 1-2, 8 and 93-108 is based upon a flawed understanding of the Shaman reference. For this reason, reconsideration and allowance should be properly be granted.

Further, as previously explained, Applicant does not believe the Examiner has properly construed Fenster. Applicant specifically disagrees with the Examiner's conclusion that the shares of the Co-Op are fungible shares. The housing units in the Co-Op clearly are not fungible. Additionally, there is no justification for combining the teachings of Buist and Fenster (let alone Shaman) other than the impermissible use of hindsight triggered by knowledge of Applicant's disclosure.

Be those points as they may, the Examiner turns to Shaman to support the conclusion that it would have been obvious to combine the disclosures of Buist and Fenster “with Shaman to issue royalty based unrestricted stock and raise capital.” Such a combination, if made, however, would not result in the invention as claimed.

The Shaman reference states that Shaman “filed to raise \$16 million through *royalty-based stocks*”. The stock offering was filed “to fund the marketing of Provier in the U.S.” The Shaman transaction is an example of what has been referred to as the “securitization” of intellectual property. The purchaser of these shares receives a right to participate in the royalties received by Shaman from licensing or sale of the drug Provier. This has nothing to do with the issuer, Shaman, receiving royalties on later sales of these shares. If party A buys 1,000 shares of Shaman for ten dollars each and later sells those same shares for fifteen dollars each, Shaman does not receive a single penny in “royalties” on the five dollar per share profit. It does not benefit from the appreciation of its shares at all. Rather, the owners of those shares participate directly in the revenue stream created by the sale of the Provier product and/or the marketing of licenses to other companies to sell Provier and other drugs covered by the rights granted in that stock. Selling of shares of a royalty stream is increasingly used as a way to turn patent rights into cash.

Thus, the Examiner relies upon Shaman inappropriately. Combining the disclosures of Buist and Fenster is implicitly admitted to fall short of justifying a rejection and the addition of Shaman does not cure their deficiencies. The combination does not result in any arrangement whereby the issue of a security participates by receiving royalties or the like when other parties trade its stock. The Examiner has taken the Shaman disclosure entirely out of context and when it is read in proper context the rejection is unsupported.

Accordingly, Applicant requests reconsideration and withdrawal of this rejection.

Claims 109-112 have been rejected as obvious over a combination of Buist and Fenster, as applied with respect to claim 106, in view of Bowman-Amuah. However, these claims depend, directly or indirectly, from claim 106, which was rejected, as stated above, based on the combination of Buist, Fenster and Shaman. Applicant thus assumes that the Office Action erroneously omits mention of Shaman in connection with the rejection of claims 109-112. As

stated above, claims 106 is allowable over the combination of Buist, Fenster and Shaman. Thus, claims 109-112 depend from an allowable base claim and are allowable for at least that reason alone. No more need be said about claims 109-112. The obviousness rejection of the claims should be withdrawn.

Non-Elected Claims

A number of claims were restricted out of the application, and withdrawn from consideration. Claim 1 and other allowable independent claims are believed to be generic as to all of some of the withdrawn claims. As Applicant's election was made with traverse, preserving Applicant's rights, those withdrawn claims should now be examined and allowed.